

[original dated 12/20/06]

Tom Howard, Acting Executive Director
State Water Resources Control Board
P.O. Box 100
Sacramento, CA 95812-0100

Dear Mr. Howard:

The Environmental Protection Agency (EPA) has reviewed the amendment to the Water Quality Control Plan for the Sacramento River and San Joaquin River Basins (Basin Plan) that establishes new water quality objectives for diazinon and chlorpyrifos in the lower San Joaquin River. I am pleased to inform you that we are approving this amendment.

The subject amendment was adopted by the Central Valley Regional Water Quality Control Board (CVRWQCB, Regional Board) on October 21, 2005 under CVRWQCB Resolution No. R5-2005-0138. It was approved by the State Water Resources Control Board (SWRCB) on May 2, 2006 under SWRCB Resolution No. 2006-0025, and by the California Office of Administrative Law on June 30, 2006. The amendment was adopted in conjunction with a Total Maximum Daily Load (TMDL) for the control of diazinon and chlorpyrifos runoff into the lower San Joaquin River. The State Board submitted the administrative record of the TMDL and objectives for approval to EPA's TMDL staff stationed in Sacramento on July 27, 2006. Upon completion of the TMDL review, the package was forwarded to EPA's Clean Water Act Standards and Permits Office in San Francisco, for review of the water quality standards provisions. That office received the submission on October 24, 2006. In this letter, EPA is approving only the water quality objectives component of CVRWQCB Resolution No. R5-2005-0138. We are addressing the TMDL in a separate action.

CVRWQCB Resolution No. R5-2005-0138 amended the Basin Plan to establish numeric water quality objectives for diazinon and chlorpyrifos in the lower San Joaquin River by adding the following language to the "Pesticides" section of Chapter III, Water Quality Objectives (amendment text is underlined):

TABLE III-2A
SPECIFIC PESTICIDE OBJECTIVES

PESTICIDE	MAXIMUM CONCENTRATION AND AVERAGING PERIOD	APPLICABLE WATER BODIES
<u>Diazinon</u>	<u>0.16 µg/L ; 1-hour average (acute)</u> <u>0.10 µg/L ; 4-day average (chronic)</u> <u>Not to be exceeded more than once in a three year period.</u>	<u>San Joaquin River from Mendota Dam to Vernalis (Reaches include Mendota Dam to Sack Dam (70), Sack Dam to Mouth of Merced River (71), Mouth of Merced River to Vernalis (83))</u>

<u>Chlorpyrifos</u>	<u>0.025 µg/L; 1-hour average (acute)</u>	<u>San Joaquin River from Mendota Dam to Vernalis (Reaches include Mendota Dam to Sack Dam (70), Sack Dam to Mouth of Merced River (71), Mouth of Merced River to Vernalis (83))</u>
	<u>0.015 µg/L; 4-day average (chronic)</u>	
	<u>Not to be exceeded more than once in a three year period.</u>	

Today's Action

Section 303(c) of the Clean Water Act (CWA) requires EPA to approve or disapprove new or revised state-adopted water quality standards. The State regulatory provisions that are subject to EPA's approval authority under Section 303(c) are those addressing antidegradation, beneficial uses, water quality criteria, and implementation of water quality standards for surface waters.

EPA has determined that the above Basin Plan amendment is subject to EPA's section 303(c) approval authority. Pursuant to CWA section 303(c) and the implementing federal regulations at 40 CFR 131, EPA hereby approves this amendment. EPA's approval, which is subject to the results of consultation under section 7 of the Endangered Species Act (ESA), is based on our finding that the amendment is consistent with the requirements of the CWA and EPA's regulations at 40 CFR 131.5 and 131.6.

Public Participation

EPA compliments the State on its efforts to include the public in the development and review of new and revised water quality standards. Public involvement is an integral component of a successful water quality program. Based upon our review, the public review procedures followed by the State in the development of CVRWQCB Resolution No. R5-2005-0138 and SWRCB Resolution No. 2006-0025 were consistent with the procedural requirements for public participation in triennial reviews, adoption, and revision of state water quality standards.

ESA Consultation with the Services on EPA's Action

Section 7(a)(2) of the Endangered Species Act states that each federal agency shall ensure that any action authorized, funded, or carried out by such agency is not likely to jeopardize the continued existence of any endangered or threatened species (listed species) or result in the destruction or adverse modification of critical habitat. On September 22, 2006, EPA Region 9 initiated informal consultation with the U.S. Fish and Wildlife Service and the National Oceanic and Atmospheric Administration's National Marine Fisheries Service (NOAA Fisheries) regarding today's action. Pursuant to the August 2002 Memorandum of Agreement Between the Environmental Protection Agency, Fish and Wildlife Service, and National Marine Fisheries Service Regarding Enhanced Coordination Under the Clean Water Act and Endangered Species Act (MOA, EPA-823-R-02-003), EPA is consulting with FWS and NOAA Fisheries on national 304(a) criteria. The MOA provides that, during the national 304(a) consultations, EPA may approve state water quality criteria that are identical or more stringent than the existing 304(a) criteria, pending the results of the national consultations, and that such action will be covered by the national consultation. The diazinon and chlorpyrifos objectives adopted for the San Joaquin River are more stringent than the existing 304(a) criteria for these pollutants.

Accordingly, EPA is deferring further consultation on this action pending completion of consultation on the final national criteria, and is approving the objectives subject to the results of consultation under section 7 of the ESA.

EPA commends the Central Valley Regional Board staff for its excellent work in establishing numeric water quality objectives for diazinon and chlorpyrifos in the lower San Joaquin River. If there are any questions regarding EPA's action, please contact Kathleen Goforth, of my staff, at 415-972-3521. As always, EPA looks forward to continued cooperation with the State in achieving our mutual environmental goals.

Sincerely,

[original signed by Nancy Woo for AS]

Alexis Strauss
Director, Water Division

cc: Pamela Creedon (CVRWQCB)
Darrin Polhemus (SWRCB)
Caroline Whitehead (EPA Headquarters, Mail Code 4301)